

THE HONORABLE BENJAMIN H. SETTLE

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

AMRISH RAJAGOPALAN et al.,

Plaintiffs,

vs.

FIDELITY AND DEPOSIT COMPANY OF  
MARYLAND et al.,

Defendants.

No. 2:15-cv-00957 BSH

MOTION OF PLATTE RIVER  
INSURANCE COMPANY TO FILE OVER-  
LENGTH MOTION TO DISMISS

NOTE ON MOTION CALENDAR:  
August 6, 2015

COMES NOW Defendant Platte River Insurance Company ("Platte River"), by and through its counsel of record herein, and hereby moves pursuant to LCR7(f) for approval to file an over-length motion to dismiss, for the reasons set forth herein.

1. Plaintiffs' Class Action Complaint and Jury Demand (ECF #1) (hereinafter "Complaint"), which was filed on June 15, 2015, seeks recovery under more than \$17 million in surety bonds, of which approximately \$7 million were issued by Platte River. The Complaint seeks relief with respect to 45 separate bonds issued in 45 states, of which 28 were issued by Platte River in 28 states. The Complaint is over 128 pages long (without exhibits), contains 694 paragraphs of allegations, and has 61 exhibits.

2. Platte River's response to the Complaint is due August 17, 2015.

MOTION OF PLATTE RIVER INSURANCE  
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DISMISS (No. 2:15-cv-00957 BHS) – 1



WILSON  
SMITH  
COCHRAN  
DICKERSON

901 FIFTH AVENUE, SUITE 1700  
SEATTLE, WASHINGTON 98164  
TELEPHONE: (206) 623-4100  
FAX: (206) 623-9273

3. Platte River has a number of legal defenses to the Complaint under Rule 12, including without limitation lack of personal jurisdiction, improper service, lack of standing and lack of subject matter jurisdiction. Therefore, Platte River plans to file a motion to dismiss the claims against it pursuant to Federal Rule of Civil Procedure 12(b)(1), (2), (5) and (6). Many of those defenses properly rely on facts outside the Complaint. See Warren v. Fox Family Worldwide, Inc., 328 F.3d 1136, 1141 (9th Cir. 2003) (“in ruling on a 12(b)(1) jurisdictional challenge, a court may look beyond the complaint and consider extrinsic evidence”); Amba Marketing Systems, Inc. v. Jobar International, Inc., 551 F.2d 784, 787 (9th Cir. 1977) (Rule 12(b)(2) motion is not based “on the bare allegations of [the] complaint, but rather” on “facts [shown] by affidavit or otherwise”).

4. In order to adequately address its Rule 12(b) defenses and to appropriately brief the grounds justifying dismissal of Plaintiffs’ massive 128-page Complaint, Platte River requires more than the 24 pages permitted by LCR 7(e)(3). Given the scope of the issues involved, the legal and factual complexity of the underlying claims, and the number of bonds at issue, Platte River requests that it be granted an additional 6 pages and be permitted to file a brief in support of its motion to dismiss that will not exceed 30 pages.

DATED this 6<sup>th</sup> day of August, 2015.

By: s/John D. Wilson, Jr.  
 By: s/ Scott M. Stickney  
 John D. Wilson, Jr. WSBA No. 4828  
 Scott M. Stickney, WSBA No. 14540  
 WILSON SMITH COCHRAN DICKERSON  
 901 Fifth Avenue, Suite 1700  
 Seattle, WA 98164-2050  
 Tel: 206.623.4100; Fax: 206.623.9273  
wilson@wsed.com; Stickney@wsed.com  
 Attorneys for Defendant  
 Platte River Insurance Company

By: s/ Jonathan A. Constine  
 Jonathan A. Constine (DC No. 416887)  
 TROUTMAN SANDERS LLP  
 401 – 9th Street, N.W., Suite 1000  
 Washington, D.C. 20004-2134  
 Tel: 202.274.2891  
 Fax: 202.274.2891  
Jonathan.Constine@troutmansanders.com  
 Attorneys for Defendant  
 Platte River Insurance Company  
 Admitted *Pro Hac Vice*

ORDER

THIS MATTER having come on regularly for hearing upon the Motion of Platte River Insurance Company to File Over-Length Motion to Dismiss and the Court being fully advised, now, therefore, it is hereby **ORDERED** that Platte River may file a motion to dismiss that will not exceed 30 pages, Plaintiffs' response shall not exceed 30 pages, and Platte River's reply shall not exceed 15 pages.

DONE IN OPEN COURT this 12 day of August, 2015.

  
The Honorable Benjamin H. Settle  
United States District Judge

Presented by:

By: s/John D. Wilson, Jr.

By: s/ Scott M. Stickney

John D. Wilson, Jr. WSBA No. 4828

Scott M. Stickney, WSBA No. 14540

WILSON SMITH COCHRAN DICKERSON

901 Fifth Avenue, Suite 1700

Seattle, WA 98164-2050

Tel: 206.623.4100; Fax: 206.623.9273

wilson@wscd.com; Stickney@wscd.com

Attorneys for Defendant

Platte River Insurance Company

By: s/ Jonathan A. Constine

Jonathan A. Constine (DC No. 416887)

TROUTMAN SANDERS LLP

401 - 9th Street, N.W., Suite 1000

Washington, D.C. 20004-2134

Tel: 202.274.2891

Fax: 202.274.2891

Jonathan.Constine@troutmansanders.com

Attorneys for Defendant

Platte River Insurance Company

MOTION OF PLATTE RIVER INSURANCE  
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 WILSON  
SMITH  
COCHRAN  
DICKERSON

901 FIFTH AVENUE, SUITE 1700  
SEATTLE, WASHINGTON 98164  
TELEPHONE: (206) 623-4100  
FAX: (206) 623-9273

1 Admitted *Pro Hac Vice*  
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WILSON  
SMITH  
COCHRAN  
DICKERSON

901 FIFTH AVENUE, SUITE 1700  
SEATTLE, WASHINGTON 98164  
TELEPHONE: (206) 623-4100  
FAX: (206) 623-9273

CERTIFICATE OF SERVICE

I hereby certify that on August 6, 2015, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the parties below:

Attorneys for Plaintiffs

Steve W. Berman  
Thomas E. Loeser  
HAGENS BERMAN SOBOL SHAPIRO  
1918 Eighth Avenue, Suite 3300  
Seattle, WA 98101  
Tel: 206.623.7279; Fax: 206.623.0594  
[steve@hbbslaw.com](mailto:steve@hbbslaw.com);  
[toml@hbbslaw.com](mailto:toml@hbbslaw.com)

Attorneys for Plaintiffs

Stuart M. Paynter  
Celeste H.G. Boyd  
THE PAYNTER LAW FIRM PLLC  
1200 G Street N.W., Suite 800  
Washington, D.C. 20005  
Tel: 202.626.4486; Fax: 866.734.0622  
[stuart@paynterlawfirm.com](mailto:stuart@paynterlawfirm.com);  
[cboyd@paynterlawfirm.com](mailto:cboyd@paynterlawfirm.com)

Attorneys for Defendant Platte River

Jonathan A. Constine  
TROUTMAN SANDERS LLP  
401 – 9<sup>th</sup> Street, N.W., Suite 1000  
Washington, D.C. 20004-2134  
Tel: 202.274.2891; Fax: 202.274.2891  
[Jonathan.Constine@troutmansanders.com](mailto:Jonathan.Constine@troutmansanders.com)

Attorneys for Defendant Fidelity

Bert W. Markovich  
Claire L. Rootjes  
SCHWABE, WILLIAMSON & WYATT, PC  
1420 Fifth Ave., Suite 3400  
Seattle, WA 98101  
Tel: 206.622.1711; Fax: 206.292.0460  
[bmarkovich@schwabe.com](mailto:bmarkovich@schwabe.com)  
[crootjes@schwabe.com](mailto:crootjes@schwabe.com)

Attorneys for Defendant Fidelity

David C. Vies  
ROBINS KAPLAN LLP  
2049 Century Park East, Suite 3400  
Los Angeles, CA 90067  
Tel: 310.552.0130; Fax: 310.229.5800  
[DVeis@RobinsKaplan.com](mailto:DVeis@RobinsKaplan.com)  
By Email

**SIGNED** this 6th day of August, 2015.

By: s/ John D. Wilson, Jr.  
John D. Wilson, Jr., WSBA No. 4828  
WILSON SMITH COCHRAN DICKERSON  
901 Fifth Avenue, Suite 1700  
Seattle, WA 98164-2050  
Tel: 206.623.4100; Fax: 206.623.9273  
[wilson@wscd.com](mailto:wilson@wscd.com)

